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IAB IV 2049854

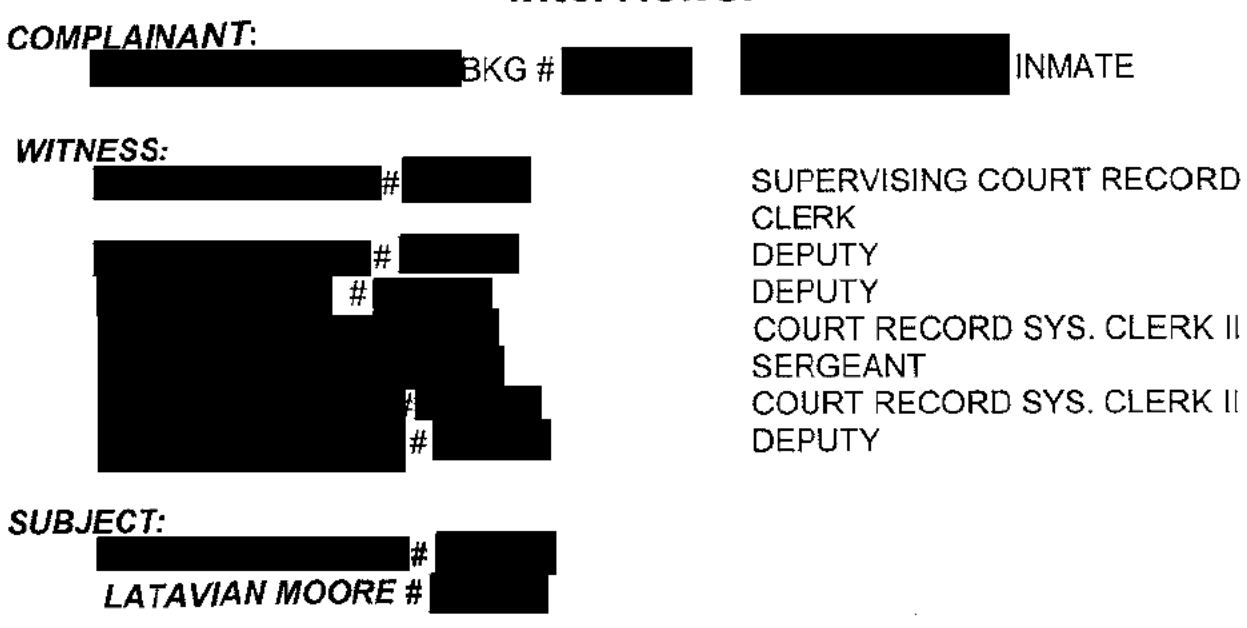
BIOGRAPHICAL SUMMARY:



[redacted] # [redacted]	DEPUTY
LATAVIAN MOORE # [redacted]	DEPUTY

IAB INVESTIGATIVE REPORT

Interviews:



COMPLAINANT:

[redacted] BKG # [redacted] [redacted] INMATE

WITNESS:

[redacted] # [redacted]	SUPERVISING COURT RECORD CLERK
[redacted] # [redacted]	DEPUTY
[redacted] # [redacted]	DEPUTY
[redacted]	COURT RECORD SYS. CLERK II
	SERGEANT
# [redacted]	COURT RECORD SYS. CLERK II
[redacted] # [redacted]	DEPUTY

SUBJECT:

[redacted] # [redacted]

LATAVIAN MOORE # [redacted]

EXHIBITS:

A - MEMO ADDRESSED TO ICIB REQUESTING INVESTIGATION AND ICIB SUPPLEMENTARY REPORT; ICIB TRANSCRIPTS
B - COMPLAINANT'S DIAGRAM OF BASEMENT AND LOCK-UP AREAS
C - PHOTOGRAPHS OF BASEMENT AND LOCK-UP AREA
D - MEMO AUTHORED BY [redacted]
E - PHOTOCOPIES OF LACO WORK IN LIEU OF CONFINEMENT AGREEMENTS OF INMATES ASSIGNED TO WORK RELEASE PROGRAM FOR THE MONTH OF OCTOBER 2001
F - SCIENTIFIC SERVICES BUREAU POLYGRAPH REPORT
G - SCIENTIFIC SERVICES BUREAU FORENSIC BIOLOGY SECTION FIELD REPORT
H - SUBJECT MOORE'S DIAGRAM OF THE "MECHANICAL ROOM"

MISCELLANEOUS DOCUMENTS

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT
INTERNAL AFFAIRS BUREAU INVESTIGATIVE REPORT

DATE OF INCIDENT	FILE NO.
B/T 10/10/01 - 10/26/01	**IAB IV # 2049854**

SUBJECT(S)

[redacted] Emp # [redacted]
Dep. Latavian Moore Emp # [redacted]
Court Services West/Santa Monica

COMPLAINANT(S)

[redacted] Bkg # [redacted]
Work Release Trustee
Assignment: Santa Monica Court

CHARACTER OF CASE

Obedience To Laws, Regulations, and Orders
Conduct Toward Others
Fraternization

LOCATION

Santa Monica Superior Court 1725 Main St., Santa Monica, CA., 90401

REFERENCE	INVESTIGATOR
ROY M. PUGH, CHIEF **COURT SERVICES DIVISION**	**Sonia D. Carroll, Sergeant** **Internal Affairs Bureau**

SYNOPSIS

On October 26, 2001, the Complainant, [redacted] reported that on or about October 10, 2001, Subject Moore took her to a room in the basement area of Santa Monica Court, where he kissed her and made a suggestive remark, indicating that he wanted her to perform oral sex on him. On the same day, his partner, Subject [redacted] also took the complainant to the basement area where he also asked her for a kiss, which she refused. After refusing to kiss Subject [redacted] the Complainant stated that Subject [redacted] continued to harass her by constantly asking her for a kiss, touching her breast on two to three occasions as she passed Subject [redacted] in the hallway and by rubbing up against her while she washed her hand in the officer's restroom located in the office of the Santa Monica Court lock-up area.

SUBMITTED BY	REFERRED FOR RECOMMENDATION TO
DENNIS H. BURNS, CAPTAIN **INTERNAL AFFAIRS BUREAU**	**COURT SERVICES WEST BUREAU**

STATUS OF SUBJECTS

Relieved of Duty



County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



LEROY D. BACA, SHERIFF

February 12, 2003

Deputy Latavian Moore, #[redacted]

Deputy Moore:

You are hereby notified that it is the intention of the Sheriff's Department to discharge you from your position of Deputy Sheriff, Item No. 2708A, with this Department, effective at the close of business on March 6, 2003.

An investigation under File Number IAB 2049854, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Sections 3-01/030.05, General Behavior; and/or 3-01/050.05, Performance of Duty; and/or 3-01/050.85, Fraternization, on or about October 10, 2001, you engaged in appropriate and/or unprofessional conduct when you took Complainant [redacted] a [redacted] inmate assigned to Santa Monica Court Lockup, to the court basement, whereupon you kissed her, requested oral sex and were masturbated by her. By your actions, you have brought discredit upon yourself and the Sheriff's Department.

2. That in violation of Manual of Policy and Procedures Section 3-01/030.10, Obedience to Laws, Regulations and Orders, on or about October 10, 2001, you engaged in behavior and/or a pattern of behavior that was unbecoming a county employee when you took Complainant [redacted] a [redacted] inmate, into the mechanical room in the basement area of Santa Monica Court and kissed her, requested oral sex and were masturbated by her.

A Tradition of Service

3. That in violation of Manual of Policy and Procedures Section 3-01/040.75, Failure to Make Statements and/or Making False Statements During Departmental Internal Investigations, you failed to make full and/or complete and/or truthful statements during the course of an official Department Internal Investigation. These statements include, but are not limited to:

   a) When asked numerous times if you took Complainant [redacted] to the basement and/or into the mechanical room, your response was, "No." When asked, "Did you ever take [redacted] to the basement to get supplies, you replied, "No." When asked if you were sure about that, you replied, "Yes." When asked if you were positive of that, you replied, "Yes." When asked why you were so positive, you responded, "Because I would remember, because that's - this is fairly recent so I would remember." When asked to furnish a recent date, you responded, This was fairly recent within the last half a year.........so my memory's not that bad," and/or;

   b) During your second interview, you admitted to "possibly taking Complainant [redacted] to the mechanical room," and/or;

   c) During the second interview, the IAB investigator asked when you were in the room with the Complainant, was it possible that you told her to duck under the vent and you took her to another location in that room? You responded, "No. No. Only time she might have had to duck was to duck from the vents." When asked what vents, you replied, "Maybe somewhere here [pointing to your diagram of the mechanical room, Exhibit-H] I mean, I know we had to duck before we went to (um)..I'm not going to say that because I don't remember. I do know, I do know in some places in the mechanical room, you do have to duck." When asked if you ever told Complainant [redacted] to duck, you responded, "I don't, I don't recall."

4. That in violation of Manual of Policy and Procedures Sections 3-01/030.05, General Behavior; and/or 3-01/050.05, Performance of Duty; and/or 3-01/050.10, Performance to Standards, on two separate occasions, while on duty, you failed to devote your time and attention to the service of the County and the Department, and/or engaged in

behavior and/or a pattern of behavior which is unbecoming a county employee, when you left your assigned post to masturbate in the mechanical room, thereby bringing discredit upon yourself and the Sheriff's Department.

You may respond to the intended action orally or in writing. In the event that you choose to respond orally to these charges, you have already been scheduled to meet with Chief Taylor Moorehead on March 4, 2003, at 1400 hours, in his office, which is located at 1000 South Fremont Avenue, A9E, 5th Floor South, Alhambra 91803. If you are unable to appear at the scheduled time and wish to schedule some other time prior to March 4, 2003, for your oral response, please call Chief Moorehead's secretary at [redacted] for an appointment.

If you choose to respond in writing, please call Chief Moorehead's secretary to cancel your scheduled appointment, and send your response to the facts contained in this letter to Chief Moorehead's office by no later than March 4, 2003.

Unless you are currently on some other type of authorized leave, pursuant to Rule 16.01 of the Los Angeles County Civil Service Commission Rules, effective immediately, you are on paid administrative leave which will continue during the fifteen (15) business days you have to respond to the intended discharge or until the conclusion of your pre-disciplinary hearing. If you are presently on an authorized leave, that leave will continue during the fifteen (15) business days you have to respond to the intended discharge, or until the conclusion of your pre-disciplinary hearing.

Failure to respond to this Letter of Intent within fifteen (15) business days will be considered a waiver of your right to respond and will result in the imposition of the discipline indicated herein.

If you did not receive the investigative material on which your discipline is based at the time you were served with this correspondence, you may contact the Internal Affairs Bureau at (323) 890-5300, to obtain a copy of the case file.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

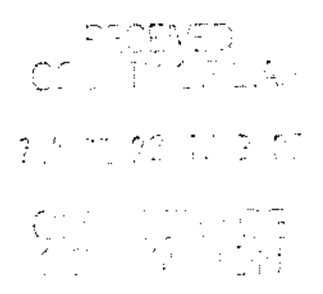
LEROY D. BACA, SHERIFF

Dennis H. Burns, Captain
Commander, Internal Affairs Bureau

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures.

DHB:SC:lh

c: Advocacy Unit
Employee Relations Unit
Chief Taylor Moorehead, Court Services Division
Internal Affairs Bureau
Office of Independent Review (OIR)
(File # 2049854)



COUNTY OF LOS ANGELES

CIVIL SERVICE COMMISSION

In the Matter of the Appeal of **LATAVIAN MOORE** Appellant v. **LOS ANGELES COUNTY SHERIFF'S DEPARTMENT** Respondent	)	**CASE NO: 03-110** **FINDINGS OF FACT** **CONCLUSIONS OF LAW** **RECOMMENDATION**

1. INTRODUCTION

On March 10, 2003, Latavian Moore ("appellant") was notified by certified mail from the Sheriff's Department ("Department") that he was being discharged from his position of Deputy Sheriff with the Department effective at the close of business on March 6, 2003. Appellant filed a timely appeal to the Civil Service Commission ("Commission") and, following compliance with Civil Service Rule 4, the matter was set for hearing on February 18, 2004. Additional hearings were held on February 19, April 6, and May 25, 2004. At the conclusion of these four hearing dates the record was left open by stipulation of the parties for the sole

purpose of the submission into evidence of appellant's Exhibit "A" by June 3, 2004. The record was thereafter closed. The appellant, Mr. Moore was present at all hearings and was represented by Ms. Helen L. Schwab, Attorney at Law, of the firm of Green and Shinee and the Department was represented by Ms Denise M. Caprioli, Attorney at Law, of the firm of Manning and Marder. Evidence, both oral and documentary, was received and closing arguments in the form of written briefs were submitted to the Commission office by June, 17, 2004.

2. ISSUES

The issues as defined by the Civil Service Commission for consideration by the Hearing Officer are as follows:

1. Are the allegations contained in the Department's letter of March 5 2003 true?
2. If any or all of the allegations are true, is the discipline appropriate?

3. BASIS OF ALLEGATIONS

The basis for the Department's decision to discharge the appellant is that he violated the Department's Manual of Policy and Procedures in several respects as set forth below

- Violation of Manual Sections 3-01/030.05 (General Behavior), 3-01/050.85 (Fraternization) and 3-01/050.05 (Performance of Duty)
- Violation of Manual Section 3-01/030.10 (Obedience to Laws regulations and Orders)

- Violation of Manual Section 3-01/040.75 (Making False Statements or Failing to Make Full and True Statements During an Official Departmental Investigation)
- Violation of Manual Section 3-01/030.05 (General Behavior), and 3-01/050.05 (Performance of Duty).

4. DEPARTMENT'S CONTENTIONS

The Department contends that on or about October 10, 2001, Deputy Latavian Moore, while on duty at the Santa Monica Court lockup; overseeing [redacted] inmates, took the Complainant [redacted] to the court basement whereupon he kissed her, requested oral sex and was masturbated by her. In so doing he brought discredit upon himself and the Department.

The Department further contends that during the course of official internal investigations into these allegations Deputy Latavian Moore made false statements or failed to make full and complete truthful statements as to the circumstances surrounding these charges to investigators.

Finally, the Department also alleges that Deputy Moore, while on duty on October 10, 2001, engaged in behavior which is unbecoming a county employee when he left his assigned post to masturbate in the mechanical room in the basement of the Santa Monica Courthouse. In so doing he brought discredit upon himself and the Department.

5. BACKGROUND

The appellant has been employed by the Sheriff's Department as a Deputy

Sheriff since 1999. [redacted] the end of January 2000 he was transferred to the Court Services Division at the Santa Monica Courthouse. Moore was placed in charge of [redacted] and he dealt with both male and female inmates. According to Moore's understanding, a [redacted] inmate is one who works in a county facility such as a courthouse in lieu of serving jail time. The duties include picking up trash, filing and other light chores.

[redacted] was one of the [redacted] inmates under the supervision of Deputy Moore. At the time that she came to work at the Santa Monica Courthouse on October 9, 2001 she was nineteen years old.

On October 26, 2001, Ms. [redacted] approached Supervising Clerk, [redacted] and told her that Deputy Moore had asked her to come with him to the basement supply room (also referred to as the Mechanical Room). After going to the basement supply room Ms [redacted] stated that Moore turned out the lights and then kissed her. She admitted to kissing him back but then he asked her to perform oral sex on him but she refused. He then asked her to masturbate him and she complied. They were interrupted by a radio call and then went back upstairs. Ms [redacted] took her to Lieutenant John Benedict who is the Area Lieutenant for personnel management and sergeants at the courthouse and she repeated the incident to him. Lieutenant Benedict referred the matter to Internal Affairs Division.

The alleged misconduct by the appellant became the subject of an Internal

Affairs investigation shortly thereafter and at the conclusion of the investigation following a Skelly hearing, it was determined by the division chief that the allegations against Deputy Moore were true and that the recommended discipline of discharge from his position, was appropriate. This ultimately led to the March 5, 2003 letter of discharge to the appellant. Moore then filed a timely appeal and the matter was set for hearing pursuant to Rule 4 of the Civil Service Commission.

6. TESTIMONY RECEIVED

As its first witness the Department called Ms. [redacted] Having been sworn, she testified that she is the Supervising Court Records Clerk at the Santa Monica Courthouse. On October 26, 2001, she was approached by Ms [redacted] who wanted to discuss a matter with her privately. She knew [redacted] never had any problems with her and found her to be pleasant. On this day however [redacted] appeared agitated and subdued and fumbled with an orange up. They spoke out on the patio where they would have privacy. [redacted] told her that Deputy Moore took her downstairs to the supply area. He kissed her and she kissed him back. He then asked her for oral sex but she refused. Moore then asked her to use her "natural abilities" but she again refused. She understood this to mean oral sex. She never said anything about masturbating Moore. She brought Ms. [redacted] to Lieutenant Benedict. The substance of their discussion was incorporated in a memo which she sent to Lieutenant Benedict on January 3, 2002 (Dept. Exhibit 1)

Ms [redacted] generally told Lieutenant Benedict what the problem was but she preferred that Ms [redacted] speak with him directly so she took her to Lieutenant Benedict's office

Lieutenant Benedict was called to testify as a witness for the Department. He is the Area Lieutenant for the Court Services Division and has been in this position for about two and one half years He stated that in October 2001 he had a conversation with [redacted] who informed him of Ms [redacted] complaint He had Ms [redacted] come to his office. When she arrived, she appeared nervous, distraught and was crying. She wanted to be transferred out of the lock out. She said on one occasion (not that day) she was sitting on a bench in front of a court room speaking to a male friend in a white jump suit Deputy Moore came up, told him to leave and escorted him out He then motioned for [redacted] to follow him. They went into a room in the basement She said that when they got there Moore shut the door and turned out the light He then kissed her for a long time He asked her if another deputy could come down but she refused Ms [redacted] gave an accurate description of the room The description was verified by Benedict who immediately went down to check

Benedict promised to look into the matter. He then reported the incident to Internal Affairs. (Dept. Exhibit 4). He testified that he believed the incident with Moore had occurred about a week before she brought the matter to his attention As with Ms. [redacted] she did not tell him that Deputy Moore asked her to masturbate him.

The Department then called Sergeant Sonia Carroll. Sergeant Carroll began with Internal Affairs in October 2001 Her job is to investigate Title 7 issues, gather facts, interview witnesses and write reports of her findings

She was assigned to investigate the Moore case on or around December 5, 2001 She interviewed Ms. [redacted] in the company of her [redacted] and the interview was tape recorded. (Dept. Exhibit 5) She told Sergeant Carroll that Deputy Moore took her to a room in the basement, turned off the lights and they kissed She responded positively to his kiss He asked her for oral sex but she refused She accurately described the room and much of its contents including the computer and a desk. She delayed in reporting the incident with Moore as well as an incident involving another deputy* because she knew that the other deputy had many years of service and she was afraid she would not be believed

Ms [redacted] was administered a polygraph exam which came up deceptive (Dept Exhibit 6) She then admitted that she was not truthful about the incident in the basement with Moore She said she masturbated him and he ejaculated in her hand and on the floor. A forensics exam of the floor for evidence of semen was requested That was done but no evidence was found

Another polygraph exam was administered at a later date but that too showed her to be deceptive (Dept Exhibit 7)

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*The investigation also involved a complaint by [redacted] against another deputy Those allegations have not been considered at this hearing or in this report as they have been the subject of a separate disciplinary hearing

After interviewing Ms. [redacted] Sergeant Carroll went to the courthouse to take pictures of the Mechanical Room. Sergeant Mitchell was with her. Ms [redacted] had drawn diagrams of the basement and the Mechanical Room for her (Dept. Exhibit 8). Sergeant Carroll prepared a work sheet in which she set forth the findings of her investigation. (Dept Exhibit 9. She concluded that the evidence supported the charges against Deputy Moore and recommended that he be discharged

She conducted an interview with Moore on February 5, 2002. (Dept Exhibit 10) With her was Sergeant Mitchell. At no time did Deputy Moore admit to taking Ms. [redacted] to the basement and he denied ever kissing her, asking her for oral sex or having her masturbate him. The results of the investigation were reported to Chief Moorhead who asked for additional information. As a result, a second interview of Deputy Moore was conducted on November 19 2002. During the course of that interview, when asked if he had ever taken Ms Okamoto to the basement Mechanical Room Moore's story changed somewhat He now said that it was "very possible" that he took her down to the Mechanical Room to get supplies. In fact, nine months after his first interview, he can now describe where Ms [redacted] "ventured" past the computer in the Mechanical Room. He said she was about 12-15 feet away from him when they were there He also admitted to the investigators that on at least two occasions, when he was by himself he had "private moments" (masturbated)

Sergeant Carroll also interviewed Deputies [redacted] [redacted] and [redacted]

[redacted] said that when [redacted] talked to her she had only complained about Deputy [redacted] being too hard on her and that he had touched her breast. Nothing was said about Moore. [redacted] also expressed her belief that there was no need for anyone to go inside the Mechanical Room and that she, [redacted] and [redacted] had never been there. [redacted] also said that they ([redacted] and Moore) were thinking of rolling [redacted] up (sending her back to jail) because of her inappropriate attire.

The Department then called [redacted] She was at the Santa Monica Court in October 2001 serving out a ninety-day sentence as a [redacted] inmate. After about thirteen days into the [redacted] she complained to Ms [redacted] that Moore had taken her down to the basement turned out all the lights and kissed her. Moore had told her he was a single man and that he had an injury which required surgery. [redacted] stated that after telling her to come with him to the basement she asked him why they were going down there. His response was that they were going to pick something up. After entering the Mechanical Room he turned of the lights and kissed her. He then took her by the hand and led her along a wall. They ducked under a vent and came into another area. She observed sunspots which filtered through onto the wall. Moore was leaning up against a pillar when he put his hand around her waist and kissed her. He said " you kiss good, do you have any other skills?" She understood him to mean could she perform oral sex. She refused although he asked her at least three or four times. He then asked her to masturbate him

After she complied, he ejaculated. She then heard him being called on the radio. They then left to go back upstairs where she sat in front of Department B as instructed by Moore. While sitting there Deputy [redacted] came along. He also took her downstairs where he tried to kiss her. She told him to stop and he did. They then picked up trash. He said to her, "you took care of Moore why are you treating me badly?" She was troubled by what had happened and was afraid that they (supervisors) would find out about it. The next day she reported the incident to Ms. [redacted]

After having reported the matter to Ms. [redacted] and Lieutenant Benedict, she was asked to wear a wire. Sergeant Regalado picked her up, gave her a wire that looked like a pager and dropped her off at the Santa Monica Court. While sitting in the hallway she saw [redacted] Although she said "good morning" to him, he ignored her. Later, she saw Moore. He told her, "somebody will see you. I don't want to get into trouble." A few weeks later she had a meeting at her home with Sergeants Carroll and Mitchell. She described what had happened and her statement was tape recorded. She had drawn a diagram of the basement and the lock up area as well as the Mechanical Room where Moore had taken her (Dept. Exhibit 6.)

During her testimony, Ms. [redacted] was shown a photo of the Mechanical Room (Dept. Exhibit 18) and one of the basement hallway. (Dept. Exhibit 19) and she recognized both of the photos. She also described how while in the computer room they had walked past the computer and that she had to duck under a vent

when she turned left.

On cross-examination Ms. [redacted] admitted to having three convictions for petty theft.

She said that she had heard that she was going to be "rolled up" for wearing gang attire and she was mainly afraid of Deputy [redacted] not Moore.

On redirect, Ms. [redacted] admitted that the only reason she told about [redacted] and Moore is because she heard she was going to be rolled up.

She does not believe she lied on her polygraph exams. She just didn't mention the fact that she had masturbated Moore.

As its next witness, the Department called Taylor Moorehead, Chief, Los Angeles Sheriff's Department, Court Services Division.

Chief Moorehead reviewed the investigation and believed that Moore had lied about being in the Mechanical Room with [redacted]. When Moore was told that the lab had gone into the room to examine for semen stains, he changed his story and said he had masturbated in there.

Even if that were true, masturbation does not mitigate Moore's conduct. At his Skelly hearing Moore recanted his story about masturbation.

Chief Moorehead admits that he has serious doubts about Ms. [redacted] credibility. However, Moore's lying, then recanting and his admissions regarding masturbation are themselves enough to cause Moore's termination.

Chief Moorehead was of the opinion that even if [redacted] had not been entirely candid about what had occurred in the basement she certainly explained

in great detail what the Mechanical Room and its contents looked like. This refutes Moore's statements that he never took her down to the basement.

Chief Moorehead believes that the fact that Deputy Moore's telling first one story to the investigators and then another, his admissions regarding masturbating and his fraternization with an inmate are not capable of redemption and the only appropriate penalty is termination of his employment.

The appellant, Latavian Moore, was next called to testify. His work history has been previously discussed. By October 2001, he had supervised hundreds of inmates who were in the [redacted] program. This included both male and female inmates.

He first met [redacted] in October 2001. During the first couple of days she was assigned to various cleaning chores. She wore hip-hop attire and had to be cautioned about that. During those first few days she would sit on a bench in the hallway of the courthouse. On one particular day he observed her talking to a released male inmate and he admonished her not to talk to anyone. She responded by telling the inmate "you're released, you don't have to listen to him."

Supplies were kept in the basement and he would take [redacted] inmates down to the basement to obtain supplies. During the time that he worked at the Santa Monica court he had taken quite a few inmates down to the basement.

During the month of October 2001, there was an incident that occurred at the court and he was involved in breaking it up. He was injured in the

process and was required to undergo surgery on October 30-31 Until his surgery date he continued to work at the courthouse on light duty and this included supervising Ms. [redacted] He denies ever committing any sexual misconduct in the basement and he can't specifically recall whether he ever took [redacted] down to the basement. He concedes, however, that he probably did

He denies ever discussing his personal life with Ms. [redacted] but because of the close proximity of the inmates to the deputies it is possible that she overheard him discuss personal matters with his fellow deputies

He was interviewed by Internal Affairs on two occasions. During the first interview he denied taking [redacted] down to the basement. During the second interview which he said was about three months later (actually nine months later*) he admitted that he probably took her down to get supplies However, he denied that he ever asked Ms. [redacted] to masturbate him. He did admit that on two occasions he did go down to the basement by himself for "private time" This was the term that he used for masturbation

He attended a Skelly hearing at which Chief Moorehead was present Chief Moorehead told him he didn't believe Okamoto was truthful and he offered to drop the charges with the exception of the masturbation allegations Chief Moorehead also gave Moore an opportunity to resign in lieu of discharge

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* Examiner's note

7. DISCUSSION

A considerable amount of evidence, both testamentary and documentary has been received over the four days of hearings into this matter. Attention was paid not only to what the witnesses were saying but also to the demeanor of the witnesses. California Evidence Code §780 provides the general rule that the demeanor of a witness while testifying under oath and the manner in which he or she testifies may be taken into account when determining the credibility of the witness

Ms. [redacted] testified against the appellant. It was evident to this examiner that she was a reluctant witness. She failed to appear when she was originally scheduled to do so although she did finally give testimony about what she alleges occurred between her and Deputy Moore at the Santa Monica courthouse. One can only speculate as to the reason for her reluctance. It might have been a fear of confronting the accused or possibly a fear of being caught in a lie. When she was originally interviewed she repeated at least three or four times that she didn't want to get anyone in trouble. We do know however that she has lied more than once during the course of this investigation. Perhaps her lies have been more in the nature of lies of omission rather than commission.

When interviewed by Ms. [redacted] Ms. [redacted] never told her that she had masturbated Deputy Moore in the basement Mechanical Room. Nor did she tell Lieutenant Benedict that she did so. She conveniently left out that important detail during her first polygraph examination and admitted to Sergeant Carroll

the Internal Affairs investigator, that she had lied after being told that she registered as "deceptive." She also registered deceptive after taking a second polygraph examination and it is also to be noted that Ms [redacted] has had three past convictions for petty theft.

After the alleged incident with Deputy Moore in the Mechanical Room, Ms [redacted] waited approximately eleven to fifteen days before reporting the incident to Ms [redacted] Her explanation was that she was fearful that she might be "rolled up" by the deputies who were involved and that she would not be believed by the supervisors because the deputies had long-term service with the Department.

There is a further contradiction which is worthy of note as to the testimony of Ms [redacted] with regard to the reporting of the incident. According to Ms [redacted] Ms [redacted] first came to her on January 3, 2001 with the complaint about the deputies. It is to be recalled that Ms [redacted] clearly described her as being agitated, subdued and fumbling with her orange bib. [redacted] asked to speak to her in private and so they went out on the patio to talk. However, according to Ms [redacted] it was Ms [redacted] who first approached her and asked what was troubling her and not the other way around. One would think that this event, traumatic as it might be, is one which would be impressed in one's memory for a long time. Your Examiner is inclined to believe Ms [redacted] version of who first approached whom to discuss the incident. Her testimony on the witness stand was far more credible.

Ms. [redacted] was frank to admit in her reporting of the incident that she was not afraid of Deputy Moore; that she liked him; that she responded warmly to his kiss in the Mechanical Room and that she didn't want to get him into trouble. It appears that her fears were mostly about Deputy [redacted] and the trouble he might cause her if she didn't cooperate and do for him what she did for Moore down in the basement. That is, she feared that he might have her rolled up.

Chief Moorehead also had doubts about Ms. [redacted] credibility but he felt that Deputy Moore's lying, then recanting his story and lying again far outweighed Ms. [redacted] lack of credibility. He was also of the opinion that Moore's admissions to self-masturbation in the Mechanical Room were of such a degree of misconduct as to warrant Moore's termination. In Moorehead's own words "the conduct is outrageous...there is no way to retrain (Moore)."

Deputy Moore's testimony is replete with contradictions as well. During his interview with Internal Affairs investigators on February 5, 2002 (Dept. Exhibit 10) he is asked by Sergeant Carroll on page 35 "Have you ever taken [redacted] to the basement?" He answers "no." Again, on page 37 he is asked "Did you ever take [redacted] to the basement to get supplies?" His answer again is "no." He is asked the same question twice more on page 38 and twice more on page 42 and in each case he categorically denies ever taking Ms. [redacted] down to the basement.

Approximately nine months later, on November 19, 2002 Deputy Moore is interviewed once again by Internal Affairs investigators. (Dept. Exhibit 11) It

would be expected that his recollection of events that occurred on October 10 2001 would not be as clear in his mind as they were during his previous interview back in February considering the passage of time. To the contrary, Deputy Moore now seems to recall, as shown on page 23, that "it is very possible that I took her [redacted] down there to get supplies." In fact he repeats that "it is 'very possible'" four times in the same paragraph. Not only does Moore admit that it is very possible that he took her down to the basement but then he goes into detail on page 25 about where she walked inside the Mechanical Room. The following is an excerpt from Moore's interview of November 19, 2002:

Question: "Did she ever go to the place where you said you did not go?"

Answer: "She walked somewhat over there, but not really too far from me."

Moore is asked to draw a diagram (Dept. Exhibit 16) of where he and Laurenee Okamoto were situated in the Mechanical Room. On the diagram he notes with some specificity that Ms. [redacted] stood about 12-15 feet from him. He also states that he did not tell her to duck under some vents in the Mechanical Room but then changed his story to say that he didn't recall telling her to duck. His explanation of what did or did not happen with regard to the vents is confusing and inconsistent and shows a lack of candor.

On page 30 of his interview Sergeant Carroll asks him if he ever unzipped his pants while in the basement area. His reply on page 31 is "unzip my pants as far as ... as far as ... masturbation ... I have before. Not, not often. I have before, though." He also notes on the previously referred-to diagram where in the

Mechanical Room he would go for his "private moments"

Moore's new recollections with regard to "possibly" taking Ms. [redacted] down to the basement, coming nine months after his previous firm denial, cast considerable doubt upon his credibility. Not only does he suddenly recall that he did possibly take Ms. Okamoto down to the basement but he can even describe in great detail, on a diagram, where he stood and that she was some 12-15 feet away from him.

When Moore is confronted by investigators with the possibility that the Scientific Investigations Lab may have obtained semen samples from the Mechanical Room floor to corroborate [redacted] allegation that she masturbated him he responds by saying that the semen would have resulted from the private moments (masturbation) he had in the room. This, however, seems to be an attempt on his part to cover up for the allegation. Nonetheless, his frank admissions with regard to his masturbation in the Mechanical Room are to be taken as true.

For the sake of discussion, if we were to allow for the moment that Ms. [redacted] was fabricating her testimony the question then becomes how is it possible that she could describe with such a high degree of accuracy (Dept. Exhibit 8) the interior of the Mechanical Room, the location of the desk and the computer upon it, the pillar where Deputy Moore stood and the location of the vents through which the light came through unless Moore took her there. The answer is that Deputy Moore did take her to the Mechanical Room for an

improper purpose and, taking into account all of the evidence presented at the hearing, it is clear by a preponderance of the evidence that Deputy Moore committed the acts alleged by the Department

8. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The evidence, having been considered along with the contentions of the parties, I make the following:

Findings of Fact

1. At all material times, the appellant was employed as a Deputy Sheriff with the Los Angeles County Sheriff's Department assigned to the Court Services Division at the Santa Monica courthouse.

2. On October 10, 2001, appellant engaged in inappropriate and/or unprofessional conduct in violation of the Manual of Policy and Procedures §§§ 3-01/030.05, General Behavior; 3-01/050.05, Performance of Duty; 3-01/050.85 Fraternization, when he took complainant [redacted] a [redacted] inmate, to the court basement of the Santa Monica courthouse, whereupon he kissed her, requested oral sex and was masturbated by her.

3. On October 10, 2001 appellant engaged in behavior and /or a pattern of behavior that was unbecoming a county employee in violation of the Manual of Policy and Procedures § 3-01/030.10 when he took complainant [redacted] a [redacted] inmate to the court basement of the Santa Monica courthouse and kissed her, requested oral sex and was masturbated by her.

4. In violation of the Manual of Policy and Procedures § 3-01/040.75

appellant failed to make true statements or made false statements during the course of an official Department Internal Investigation as follows

a) During the interview of February 5, 2002, the appellant denied taking the complainant to the basement but during his second interview on November 19, 2001, Moore admitted that he possibly took Ms. [redacted] to the basement.

b) Also during his second interview he gave confusing and inconsistent statements with regard to whether he and [redacted] had to duck under the vents in the Mechanical Room.

5. In violation of the Manual of Policy and Procedures §§§ 3-01/030.05 General Behavior; 3-01/050.05, Performance of Duty; and 3-01/050.10, Performance to Standards, on two separate occasions, while on duty, he failed to devote his attention to the service of the County and the Department and engaged in behavior which is unbecoming a county employee when he left his assigned post to masturbate in the Mechanical Room.

CONCLUSIONS OF LAW

1. The allegation that on October 10, 2001, the appellant engaged in inappropriate and unprofessional conduct when he took complainant [redacted] a [redacted] inmate assigned to Santa Monica Court Lockup, to the court basement, whereupon he kissed her, requested oral sex and was masturbated by her is true and constitutes misconduct as described within the Manual of Policy and Procedures.

2. The allegation that on October 10, 2001, the appellant engaged in a pattern of behavior that was unbecoming a county employee when he took the complainant, [redacted] a [redacted] inmate, into the Mechanical Room in the basement of the Santa Monica courthouse and kissed her, requested oral sex and was masturbated by her is true and constitutes misconduct as described within the Manual of Policy and Procedures.

3. The allegation that the appellant, during the course of an official Department Internal Investigation failed to make full or truthful statements is true and constitutes misconduct as described within the Manual of Policy and Procedures

4. The allegation that the appellant, failed to devote his attention to the service of the County and the Department, and engaged in behavior which is unbecoming a county employee is true and constitutes misconduct as described within the Manual of Policy and Procedures

5. The Appellant's dismissal from his position of employment as Deputy Sheriff from the Los Angeles County Sheriff's Department is appropriate

RECOMMENDATION

It is the recommendation of this Hearing Officer that the appellant's discharge is sustained

Respectfully submitted

Jerry Ellner

Dated: July 21, 2004



CIVIL SERVICE COMMISSION

COUNTY OF LOS ANGELES

November 24, 2004

FINAL COMMISSION ACTION

Subject of Hearing: In the matter of the **discharge**, effective March 6, 2003, of **LATAVIAN MOORE (Case No. 03-110)**, from the position of Deputy Sheriff, Sheriff's Department.

The Civil Service Commission, at its meeting held on November 17, 2004, approved findings in the above-entitled case. The objections submitted were overruled.

Since a copy of these findings has already been provided to all the parties, we have enclosed a copy of the signed formal order of the Commission for your records.

Anyone desiring to seek review of this decision by the Superior Court may do so under Section 1085 or 1094.6 of the Code of Civil Procedure, as appropriate. An action under Section 1094.6 can only be commenced within 90 days of the decision.

Emi Yamasaki, Chief
Civil Service Commission Services

c: Latavian Moore
Helen L. Schwab
Denise M. Caprioli
Jerry Ellner

BEFORE THE CIVIL SERVICE COMMISSION OF THE

COUNTY OF LOS ANGELES

In the matter of the **discharge**, effective March 6, 2003, from the position of Deputy Sheriff, Sheriff's Department, of: **LATAVIAN MOORE** **(Case No. 03-110)**	ORDER OF THE CIVIL SERVICE COMMISSION

On November 17, 2004, the Civil Service Commission of the County of Los Angeles, having read the foregoing Findings of Fact and Conclusions of Law, and good cause appearing therefore, overruled the objections and adopted, as constituting its final decision, the supplemented report, findings and recommendation of its duly appointed Hearing Officer, Jerry Ellner, to sustain the department.

Dated this 24th day of November, 2004.

Z. GREG KAHWAJIAN, President

Frank Binch

FRANK BINCH, Member

(absent)

CAROL FOX, Member

Evelyn V. Martinez

EVELYN MARTINEZ, Member

Edgar H. Twine

EDGAR H. TWINE, Member

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CIVIL SERVICE
COMMISSION

COUNTY OF LOS ANGELES

CIVIL SERVICE COMMISSION

In the Matter of the Appeal of **LATAVIAN MOORE** Appellant v **LOS ANGELES COUNTY SHERIFF'S DEPARTMENT** Respondent	)	**CASE NO: 03-110** ADDENDUM TO FINDINGS OF FACT, CONCLUSIONS OF LAW; RECOMMENDATION.

Pursuant to instructions from the Civil Service Commission, the following constitutes my response to Appellant's objections regarding this Hearing Examiner's findings of fact and conclusions of law in the instant case:

At the outset it is necessary to address the false and outrageous allegation by the Appellant that this Examiner "clearly demonstrated bias" against him by failing to include Appellant's contentions in the report although Department's contentions were included.

Appellant's contentions were, in fact, contained in the draft report but were inadvertently omitted due to a computer error in the preparation of that final report which was submitted to the Civil Service Commission. This was solely due to an oversight and not, as Appellant alleges, the result of "clear bias."

APPELLANT'S CONTENTIONS

Appellant contends that since becoming a Deputy Sheriff in 1999 and his arrival later at the Santa Monica court he has had an exemplary record and good ratings. The principle allegations against him come from [redacted] who is not a credible witness. She failed two polygraph exams administered by the Department and she also stated that she lied about what she says Moore did to her and that Moore had turned her down. Her story changed between the first and second polygraph exam. She filed complaints against another deputy in addition to Mr. Moore and she has a prior conviction for petty theft

Deputy Moore attempted to explain that Ms. [redacted] knew the area of the basement in such detail because he might have occasionally taken her there to get supplies.

He also admitted to committing acts of masturbation in the basement supply room (his "private times") and was punished for being candid.

There is no progressive discipline here and in light of his unblemished record such consideration should have been given. There is no nexus between his fitness to serve and the conduct alleged.

APPELLANT'S OBJECTIONS TO EXAMINER'S FINDINGS OF FACT

A considerable amount of testamentary as well as documentary evidence was received during the course of the hearing. While it is true that Ms. [redacted] has a history of shoplifting convictions which casts doubt upon her character for honesty and veracity and that she did, in fact, fail two polygraph exams administered by the Department, there were a few telling instances where this examiner felt that she was being truthful. As one example, she admitted that she liked the Appellant and didn't want him to get into trouble because of what he did but that although the Appellant had committed the acts alleged, her objections were mainly against Deputy [redacted] whom she did not like. She explained that she waited almost eleven days to report the incident to Ms [redacted] because she was fearful that retribution in the form of a "roll up" would be taken against her by the deputies. They had the power over her; she was an inmate.

She was also a reluctant witness at the hearing; it being recalled that she failed to appear as required at the first hearing because she was afraid to get the Appellant into trouble.

It is to be noted that Ms. [redacted] described in great detail, both verbally and by a written diagram the contents and the layout of the Mechanical Room where the alleged misconduct occurred. Appellant concedes in his second IAB interview that he might have taken her to the room to obtain supplies although he denied doing so in his first interview. That, he argues would explain how she was familiar with the contents and layout of the room. Ms. [redacted]

however, testified that she was taken by Moore to what she described as a dark room in the basement without any clear explanation from the Appellant of the purpose for going down there. While in the room, she observed "sunspots" on the wall. She also described in detail how Deputy Moore led her along a wall and they then ducked under a vent. Afterward, he leaned up against a pillar and put his arm around her waist and they kissed. If Ms. [redacted] was making all this up based upon her brief observation of the Mechanical Room while looking for supplies she would have to have an uncanny memory. She described the location of a table; the location of a computer; the location of boxes and many other items. Furthermore, if the Appellant had indeed taken her down to the room just for the innocent purpose of getting supplies would he not have turned on the lights in the room? And If the lights had been on would she have been able to have seen sunspots on the wall?

While Ms. [redacted] testimony, based upon her history of deception and her conviction for crimes of moral turpitude, leave open to question her truthfulness, her ability to recall with such detail the contents and layout of the Mechanical Room makes her a very credible witness to this examiner.

As indicated in the preamble of my report in Section #7, California Evidence Code §780 provides that the demeanor of a witness while testifying under oath and the manner in which the testimony is given may be taken into account when determining the credibility of the witness. My observation of Ms. [redacted] while she was in the witness chair and her testimony under oath, **in**

combination with her detailed description of the Mechanical Room, among other things caused me to give considerable weight to her testimony.

Appellant argues that his later interview by IAB contrasts in detail with his first interview because he was "under pressure" by the investigators and because of the lengthy passage of time between the two interviews which presumably caused him to have lapses in memory at the later one. This was covered in my discussion on page 16 of my report where I pointed out that in response to repeated questioning by IAB during the first interview as to whether he ever took Ms. [redacted] to the Mechanical Room he unequivocally and emphatically answers that he did not. But on his second interview nine months later where it would be expected that his memory would not be as certain he suddenly seems to recall in several instances that "it was very possible" that he did take her down to the basement. So which is it? Did he take her downstairs or not? Keeping in mind that this is a trained deputy sheriff who may be called upon to testify in court would he not be expected to keep his recollection of important details straight--- even if it were nine months later

As to the issue of "pressure" being placed upon him, the two interviews were read by me in great detail. Although I clearly was not in the room during either period of questioning and therefore unable to visually determine the extent of pressure put upon the Appellant, a reading of the transcribed statements reveals no evidence of overt verbal pressure or threats against him. In fact, it does appear that during the second interview the Appellant was engaging in

some ambiguity with respect to his answers.

Appellant contends that the principles of progressive discipline should have been imposed since up to this incident the Appellant had an unblemished record and had received good ratings The Appellant's clean record was uncontroverted by the Department and is therefore taken to be true. Under ordinary circumstances a good employment record may be considered in mitigation of the penalty if the offense committed, whether standing alone or in combination with other offenses, is not so grievous in nature as to be incapable of mitigation.

In this set of circumstances, Deputy Moore was entrusted by his Department to oversee a female [redacted] inmate. In this position of trust he had the duty and responsibility of making certain that this inmate was safeguarded from any sexual advances by anyone, including himself, while she was in his custody and under his care In that regard, it is this examiner's belief that Latavian Moore, by the use of his official power, and while in the course and scope of his duties imposed himself sexually upon his charge for personal gratification. In so doing, upon being discovered, he then tried to cover it up by lying to investigators. He has brought dishonor to himself and to the Sheriff's Department of the County of Los Angeles. Can the recommended penalty of termination be mitigated on the basis of progressive discipline? I don't see how given the nature of the offenses. As Chief Moorehead pointedly and correctly asked at the hearing, "What class does the Department send him to so that he

can unlearn this behavior?" The answer to that question is self-evident.

The recommended penalty of termination from Appellant's employment as a Deputy Sheriff with the Los Angeles County Sheriff's Department should stand.

DATED: October 25, 2004

Respectfully submitted

Jerry Ellner



County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



LEROY D. BACA, SHERIFF

March 5, 2003

Deputy Latavian Moore, [redacted]

Deputy Moore:

On February 12, 2003, you were served with a Letter of Intention indicating your right to respond to the Sheriff's Department's pending disciplinary action against you, as reported under File Number IAB 2049854. You were also advised of your right to review the material on which the discipline was based.

You did exercise your right to respond. However, after review and consideration of the response submitted to support your position, your Division Chief determined that the recommended discipline is appropriate.

You are hereby notified that you are discharged from your position of Deputy Sheriff, Item No. 2708A, with this Department, effective at the close of business on March 6, 2003.

An investigation under File Number IAB 2049854, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Sections 3-01/030.05, General Behavior; and/or 3-01/050.05, Performance of Duty; and/or 3-01/050.85, Fraternization, on or about October 10, 2001, you engaged in appropriate and/or unprofessional conduct when you took Complainant [redacted] a [redacted] inmate assigned to Santa Monica Court Lockup, to the court basement, whereupon you kissed her, requested oral sex and were masturbated by her. By your actions, you have brought discredit upon yourself and the Sheriff's Department.

2. That in violation of Manual of Policy and Procedures Section 3-01/030.10, Obedience to Laws, Regulations and Orders, on or about October 10, 2001, you engaged in behavior and/or a pattern of behavior that was unbecoming a county employee when you took Complainant [redacted] a [redacted] inmate, into the mechanical room in the basement area of Santa Monica Court and kissed her, requested oral sex and were masturbated by her.

3. That in violation of Manual of Policy and Procedures Section 3-01/040.75, Failure to Make Statements and/or Making False Statements During Departmental Internal Investigations, you failed to make full and/or complete and/or truthful statements during the course of an official Department Internal Investigation. These statements include, but are not limited to:

   a) When asked numerous times if you took Complainant [redacted] to the basement and/or into the mechanical room, your response was, "No." When asked, "Did you ever take [redacted] to the basement to get supplies, you replied, "No." When asked if you were sure about that, you replied, "Yes." When asked if you were positive of that, you replied, "Yes." When asked why you were so positive, you responded, "Because I would remember, because that's - this is fairly recent so I would remember." When asked to furnish a recent date, you responded, This was fairly recent within the last half a year.........so my memory's not that bad," and/or;

   b) During your second interview, you admitted to "possibly taking Complainant [redacted] to the mechanical room," and/or;

   c) During the second interview, the IAB investigator asked when you were in the room with the Complainant, was it possible that you told her to duck under the vent and you took her to another location in that room? You responded, "No. No. Only time she might have had to duck was to duck from the vents." When asked what vents, you replied, "Maybe somewhere here (pointing to your diagram of the mechanical room, Exhibit-H) I mean, I know we had to duck before we went to (um)..I'm not going to say that because I don't remember. I do know, I do know in some places in the mechanical room, you do have to duck." When asked if you ever told Complainant [redacted] to duck, you responded, "I don't, I don't recall."

4. That in violation of Manual of Policy and Procedures Sections 3-01/030.05, General Behavior; and/or 3-01/050.05, Performance of Duty; and/or 3-01/050.10, Performance to Standards, on two separate occasions, while on duty, you failed to devote your time and attention to the service of the County and the Department, and/or engaged in behavior and/or a pattern of behavior which is unbecoming a county employee, when you left your assigned post to masturbate in the mechanical room, thereby bringing discredit upon yourself and the Sheriff's Department.

In taking this disciplinary action, your record with this Department has been considered, and a thorough review of this incident has been made by Department executives, including your Unit and Division Commanders.

You may appeal the Department's action in this matter pursuant to Rules 4.02, 4.05 and 18.02 of the Civil Service Rules.

You may, if you so desire, within fifteen (15) business days from the date of service of this notice of discharge, request a hearing on these charges before the Los Angeles County Civil Service Commission, 222 North Grand Avenue, Los Angeles, California 90012.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

William T. Stonich

WILLIAM T. STONICH
UNDERSHERIFF

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures and Civil Service Rules.

WTS:MA:DHB:lg

c: Advocacy Unit
Taylor K. Moorehead, Chief, Court Services Division

Ricardo Cotwright, Captain, Court Services West Bureau
Internal Affairs Bureau
Office of Independent Review (OIR)
Robert C. Lindsey, Director, Personnel Administration